

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202002725	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/20/2020 10:30 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 79	18 Mo. SOL 9/20/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 04/10/2020 12:32 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/10/2020 12:32 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Reilly	16493	957993	079 PCT
2. POM Antonio Zorrilla	10893	961480	079 PCT
3. SGT Frederick Manney	04797	949938	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Frederick Manney	Abuse: Sergeant Frederick Manney stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
B.SGT Frederick Manney	Abuse: Sergeant Frederick Manney stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
C.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
D.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla questioned § 87(2)(b)	§ 87(2)(b)
E.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla frisked § 87(2)(b)	§ 87(2)(b)
F.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla searched § 87(2)(b)	§ 87(2)(b)
G.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla threatened to arrest § 87(2)(b)	§ 87(2)(b)
H.POM Patrick Reilly	Abuse: Police Officer Patrick Reilly threatened to arrest § 87(2)(b)	§ 87(2)(b)
I.SGT Frederick Manney	Abuse: Sergeant Frederick Manney frisked § 87(2)(b)	§ 87(2)(b)
J.SGT Frederick Manney	Abuse: Sergeant Frederick Manney searched § 87(2)(b)	§ 87(2)(b)
K.SGT Frederick Manney	Abuse: Sergeant Frederick Manney searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	§ 87(2)(b)
L.SGT Frederick Manney	Abuse: Sergeant Frederick Manney refused to provide his name to § 87(2)(b)	§ 87(2)(b)
M.SGT Frederick Manney	Abuse: Sergeant Frederick Manney refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
N.SGT Frederick Manney	Abuse: Sergeant Frederick Manney failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
O.SGT Frederick Manney	Abuse: Sergeant Frederick Manney failed to provide § 87(2)(b) with a business card.	
P.POM Antonio Zorrilla	Abuse: Police Officer Antonio Zorrilla failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

### Case Summary

On April 10, 2020, § 87(2)(b) filed this complaint by telephone.

On March 20, 2020, at approximately 10:30 p.m., § 87(2)(b) was parked in front of § 87(2)(b) in Brooklyn with his friend, § 87(2)(b). Sergeant Frederick Manney of the 79<sup>th</sup> Precinct conducted a vehicle stop with Police Officer Patrick Reilly and Police Officer Antonio Zorrilla of the 79<sup>th</sup> Precinct (**Allegations A and B: Abuse of Authority: Vehicle Stop**, § 87(2)(g)). PO Zorrilla allegedly interfered with § 87(2)(b)'s use of a recording device (**Allegation C: Abuse of Authority: Interference with a Recording Device**, § 87(2)(g)). PO Zorrilla then questioned, frisked, and searched § 87(2)(b) (**Allegation D: Abuse of Authority: Question**, § 87(2)(g)). **Allegation E: Abuse of Authority: Frisk**, § 87(2)(g) and **Allegation F: Abuse of Authority: Search of Person**, § 87(2)(g). Both PO Zorrilla and PO Reilly threatened to arrest § 87(2)(b) (**Allegations G and H: Abuse of Authority: Threat of Arrest**, § 87(2)(g)). Sgt. Manney frisked and searched § 87(2)(b) (**Allegation I: Abuse of Authority: Frisk**, § 87(2)(g)) and **Allegation J: Search of Person**, § 87(2)(g). Sgt. Manney then searched § 87(2)(b)'s car (**Allegations K: Abuse of Authority, Vehicle Search**, § 87(2)(g)). Sgt. Manney refused to provide his name and shield number to § 87(2)(b) (**Allegation L: Abuse of Authority, Refusal to Provide Name**, § 87(2)(g) and **Allegation M: Abuse of Authority: Refusal to Provide Shield Number**, § 87(2)(g)). Sgt. Manney failed to provide business cards to § 87(2)(b) and § 87(2)(b) (**Allegations N and O: Abuse of Authority, Failure to Provide RTKA Card**, § 87(2)(g)). PO Zorrilla failed to provide a business card to § 87(2)(b) (**Allegation P: Abuse of Authority, Failure to Provide RTKA Card**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

No arrests or summonses resulted from this incident.

The investigation received body-worn camera footage from the NYPD, the relevant aspects of which shall be discussed below (**BR 01-03**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Frederick Manney stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Sergeant Frederick Manney stopped the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) told the investigation (**BR 04-05**) that, at approximately 10:30 p.m., on March 20, 2020, he had parked his § 87(2)(b) with Minnesota license plates in front of § 87(2)(b) in Brooklyn. § 87(2)(b) idled the car in front of a fire hydrant while he talked with § 87(2)(b) who sat in the front passenger seat.

The investigation was unable to contact § 87(2)(b) despite repeated attempts (see IAs). § 87(2)(b)'s girlfriend, § 87(2)(b) provided a phone statement to the investigation. Her statement had no relevant information regarding these allegations (**BR 06**).

Sgt. Manney, the supervisor of PO Reilly and PO Zorrilla, said (**BR 07**) that he observed § 87(2)(b)'s black sedan parked within 15 feet of a fire hydrant, and that he and his officers conducted a vehicle stop to address that observed violation.

PO Reilly's BWC footage (**BR 01**), at the 00:55 timestamp, shows that § 87(2)(b)'s car was stopped within approximately one car length of a fire hydrant on the northwest corner of Throop Avenue and Willoughby Avenue.

Per the Old Farmer's Almanac (**BR 08**), on March 20, 2020, the sun set at 7:09 p.m. in New York City.

Per Section 4-08 of the New York City Department of Transportation's Traffic Rules and Regulations (**BR 09**), no person shall stop, stand, or park a vehicle within fifteen feet of a fire hydrant from sunset to sunrise.

§ 87(2)(b) stood his car within fifteen feet of a fire hydrant after sunset § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Antonio Zorrilla interfered with § 87(2)(b)'s use of a recording device.**

§ 87(2)(b) told the investigation that PO Zorrilla approached him at the driver's window and directed him to hand over his car keys. § 87(2)(b) complied. § 87(2)(b) then pulled out his phone to record, and PO Zorrilla allegedly told him that he was not allowed to record the incident. § 87(2)(b) then told PO Zorrilla that he was going to make a phone call. § 87(2)(b) began to call his girlfriend, § 87(2)(b) who was upstairs inside his apartment. PO Zorrilla hung up the telephone.

Per PO Zorrilla's BWC footage (BR 02), he has the following interaction with § 87(2)(b) between the 01:37 and 01:54 timestamps. PO Zorrilla asks § 87(2)(b) to step out of his vehicle and says the following: "Just step out for me real quick. Just leave your phone in your pocket or leave it right there, leave it up here. PO Zorrilla taps on the roof of the car. § 87(2)(b) says, "I can't hold my phone? Let me just call my girl and I'll leave it right there [on the roof of the car]." § 87(2)(b) calls someone on his cell phone. PO Zorrilla says twice, "You don't have to call." § 87(2)(b) replies, "I just dialed man, why can't I call my girl?" The phone dials out over the car loudspeaker. The ringing stops after PO Zorrilla apparently hangs up the telephone. PO Zorrilla never tells § 87(2)(b) that he cannot record on his phone and does not ever prevent him from doing so.

PO Zorrilla said (BR 10) that § 87(2)(b) was not allowed to make a phone call because he could be calling people who could interfere with officers, which presented a risk to PO Zorrilla's and § 87(2)(b)'s safety.

Per PO Zorrilla's BWC, he never told § 87(2)(b) he could not record the incident, but rather PO Zorrilla told § 87(2)(b) that he could not call his girlfriend § 87(2)(g)

**Allegation (D) Abuse of Authority: Police Officer Antonio Zorrilla questioned § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Antonio Zorrilla frisked § 87(2)(b)**

**Allegation (F) Abuse of Authority: Police Officer Antonio Zorrilla searched § 87(2)(b)**

**Allegation (I) Abuse of Authority: Sergeant Frederick Manney frisked § 87(2)(b)**

**Allegation (J) Abuse of Authority: Sergeant Frederick Manney searched § 87(2)(b)**

**Allegation (K) Abuse of Authority: Sergeant Frederick Manney searched the vehicle in which § 87(2)(b) was an occupant.**

Per PO Zorrilla's BWC footage (BR 02) between the 01:30 and 02:10 timestamps, PO Zorrilla asks § 87(2)(b) before he steps out of his car, "Any marijuana in the car or anything like that, bro?" § 87(2)(b) replies, "Roaches." After § 87(2)(b) steps out of the car and tries to make a phone call, PO Zorrilla frisks § 87(2)(b) in the torso, legs, and waistband area. PO Zorrilla also places his right hand inside § 87(2)(b)'s left jacket pocket.

PO Zorrilla said (BR 10) that when he first approached § 87(2)(b)'s car, the windows of the car were rolled down and that an odor of marijuana emanated from the car, though he did not remember if it was of burnt or unburnt marijuana. PO Zorrilla said that he understood § 87(2)(b)'s response to his question of, "roaches," referred to a small amount of marijuana that constitutes the refuse of a smoked marijuana cigarette. PO Zorrilla said that he frisked and searched § 87(2)(b) for contraband and weapons.

Sgt. Manney (BR 07) and PO Reilly (BR 11) also said that they smelled an odor of marijuana emanating from the car as they approached § 87(2)(b)'s car. PO Reilly specified that the smell was of burnt marijuana, whereas Sgt. Manney did not recall.

Per Sgt. Manney's BWC footage (BR 03), he interacts with § 87(2)(b) at the passenger door between the 01:10 and 01:30 timestamps before § 87(2)(b) steps out of the car. § 87(2)(b)

tells Sgt. Manney, at the 01:27 timestamp, “I’ve got a little weed on me,” to which Sgt. Manney responds, “You keep it, I ain’t here for that.”

Per PO Reilly’s BWC footage (BR 01), Sgt. Manney frisks § 87(2)(b)’s waistband and searches § 87(2)(b)’s jeans pockets between the 01:22 and 01:43 timestamps. Sgt. Manney apparently finds marijuana in § 87(2)(b)’s front right jeans pocket, as he says, “This is the weed?” and § 87(2)(b) responds in the affirmative. Sgt. Manney then says, “Keep that in your pocket, alright?” and continues to frisk § 87(2)(b) before PO Reilly walks away and his BWC footage no longer shows the interaction.

Sgt. Manney said (BR 07) that he frisked § 87(2)(b) on the legs, waistband, and clothing pockets for contraband and weapons. Sgt. Manney, while frisking one of § 87(2)(b)’s pockets (he did not recall which), he felt a cutting instrument in § 87(2)(b)’s pocket. Sgt. Manney did not recall what kind of cutting instrument the object was. § 87(2)(b) who appeared nervous to Sgt. Manney, immediately told Sgt. Manney that he had the cutting instrument for work. Sgt. Manney took the cutting instrument out of § 87(2)(b)’s pocket but returned it to him.

Sgt. Manney’s BWC footage (BR 03) corroborates his testimony. At 01:54, § 87(2)(b) says to Sgt. Manney, “I work, so...” and Sgt. Manney tells him multiple times to relax. § 87(2)(b) continues, “I work, so that’s what that’s for, I’ve got no weapon,” presumably speaking about the cutting instrument.

Per Sgt. Manney’s BWC footage (BR 03), he searches § 87(2)(b)’s vehicle between the 02:25 and 04:00 timestamps, searching the front seats (including the center console and glovebox), back seats (including inside grocery and fast-food bags). Between the 04:15 and 04:30 timestamps, Sgt. Manney opens the trunk of § 87(2)(b)’s car and searches under the floor mat and around the spare tire under the floor mat. It is unclear in the footage whether Sgt. Manney recovers anything from the vehicle.

Sgt. Manney said (BR 07) that he searched § 87(2)(b)’s car because of the presence of an odor of marijuana. When he searched the vehicle, Sgt. Manney saw lots of “shake” – bits of unburnt marijuana – on the floor of the vehicle. Sgt. Manney said that he recovered marijuana during this incident but did not recall if he found it during the car search.

§ 87(2)(b) told the investigation (BR 04) that no one had smoked marijuana in his car on the date of the incident, and that there was no odor of marijuana inside his car.

Per *People v. De Bour*, 40 N.Y.2d 210 (BR 12), officers may pose common-law inquiries so long as there exists a founded suspicion that criminal activity is afoot.

Per *People v. Chestnut*, 36 N.Y.2d 971 (BR 13), the odor of marijuana emanating from a defendant’s vehicle provides officers with probable cause to search the vehicle and its occupants.

On the date of this incident – March 20, 2020 – the recreational use of marijuana remained illegal in the State of New York.

Though § 87(2)(b) denied that anyone had smoked marijuana in his car on the date of the incident, BWC shows that § 87(2)(b) told PO Zorrilla that there were “roaches,” slang for a spent marijuana cigarette, in the car. Furthermore, § 87(2)(b) told Sgt. Manney on Sgt. Manney’s BWC that he had marijuana on his person, which, per PO Reilly’s BWC, Sgt. Manney recovered. § 87(2)(b)

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation (G) Abuse of Authority: Police Officer Antonio Zorrilla threatened to arrest § 87(2)(b)**

**Allegation (H) Abuse of Authority: Police Officer Patrick Reilly threatened to arrest § 87(2)(b)**

Per PO Reilly's BWC (**BR 01**) between the 02:00 and 02:15 timestamps, § 87(2)(b) picks up his phone off the roof of his car after PO Zorrilla finishes frisking him. § 87(2)(b) then says, "Let me call my girl" and his phone begins to ring out. PO Zorrilla responds, "You're not calling nobody. Listen, you're not calling nobody. I'll put you in cuffs, bro. Do you want me to put you in cuffs?" § 87(2)(b) replies, "Of course not," while PO Zorrilla grabs § 87(2)(b)'s phone and hangs up the call. As he does so, § 87(2)(b) yells, "Yo, babe, I'm getting stopped!" PO Reilly then says, "Bro, you're about to go in handcuffs. Stop. Enough." PO Zorrilla and PO Reilly then walk § 87(2)(b) to the rear of his car, at which point PO Reilly says, "It's a Friday night; you don't want to go to jail, right?"

As noted above in **Allegation C**, PO Zorrilla, between the 01:37 and 01:54 timestamps of his BWC, had already directed § 87(2)(b) to leave his phone in his pocket or put it on the roof of the car. PO Zorrilla had already told § 87(2)(b) that "You don't have to call" anyone on his phone.

PO Zorrilla said (**BR 10**) that § 87(2)(b) was not allowed to make a phone call because he could be calling people who could interfere with officers, which presented a risk to PO Zorrilla's and § 87(2)(b)'s safety. PO Zorrilla said that he threatened to put § 87(2)(b) in handcuffs because § 87(2)(b) had ignored lawful orders, and PO Zorrilla could have handcuffed § 87(2)(b) for the safety of PO Zorrilla and § 87(2)(b).

PO Reilly said (**BR 11**) that he told § 87(2)(b) specifically to "Go to the back of the car or I'll put you in handcuffs." Per his and PO Zorrilla's BWC, PO Reilly did not say this phrase specifically. PO Reilly said that § 87(2)(b) was not allowed to make a phone call for the following reason: often, especially on the block where this incident took place, someone placing a phone call would result in crowds of up to 100 people coming to the scene. PO Reilly said that when he told § 87(2)(b) he was about to go in handcuffs, he said so to gain compliance and to stop the situation from escalating further or becoming physical. PO Reilly said that he asked § 87(2)(b) "You don't want to go to jail, right?" because § 87(2)(b) did not at first comply with directions to refrain from making a phone call and to step to the rear of the vehicle. PO Reilly said that § 87(2)(b) was subject to arrest for not complying with a lawful order to step to the back of the car.

Per Patrol Guide Procedure 209-01 (**BR 14**), officers are authorized to issue a summons instead of arresting individuals for vehicle and traffic law infractions.

Per Section 4-08 of the New York City Department of Transportation's Traffic Rules and Regulations (**BR 09**), no person shall stop, stand, or park a vehicle within fifteen feet of a fire hydrant from sunset to sunrise.

§ 87(2)(b) had committed a vehicle traffic law infraction by standing within fifteen feet of a fire hydrant after sunset, as noted in **Allegations A and B**. § 87(2)(b) could have been arrested for the infraction. While PO Reilly and PO Zorrilla did not cite the infraction as the reason why they threatened to handcuff and jail § 87(2)(b), § 87(2)(b) was ultimately subject to arrest. § 87(2)(g)

**Allegation (L) Abuse of Authority: Sergeant Frederick Manney refused to provide his name to § 87(2)(b)**

**Allegation (M) Abuse of Authority: Sergeant Frederick Manney refused to provide his shield number to § 87(2)(b)**

Per Sgt. Manney's BWC (**BR 03**) between the 04:05 and 04:10 timestamps, Sgt. Manney directs § 87(2)(b) to sit back down inside his car. § 87(2)(b) says, as he walks towards the driver's seat, "I need all y'all's information," to which Sgt. Manney replies, "Yeah, no problem." For the remainder of Sgt. Manney's BWC activation, which captures the entire incident, Sgt. Manney does not provide any of his identifying information to § 87(2)(b).

These allegations are pled solely to Sgt. Manney because PO Reilly did provide his name and shield number to § 87(2)(b) upon this request (see his BWC [BR 01] between the 03:53 and 04:20 timestamps), and because PO Zorrilla was conversing with and escorting § 87(2)(b) when § 87(2)(b) made his request.

Sgt. Manney said (BR 07) that he never provided his information to § 87(2)(b). Sgt. Manney assumed that PO Reilly or PO Zorrilla would have provided all the information which § 87(2)(b) needed. Sgt. Manney did not provide § 87(2)(b) with a business card at the conclusion of this incident.

Per PO Reilly's (BR 01) and PO Zorrilla's (BR 02) BWC activations, which both capture the entire incident, neither officer provided § 87(2)(b) with Sgt. Manney's information.

Per Patrol Guide Procedure 203-09 (BR 15), all members of service are to courteously state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests they do so.

While § 87(2)(b)'s request – "I need all y'all's information" – is general, officers understood what he meant, as Sgt. Manney acknowledged the request contemporaneously and PO Reilly fulfilled the request. Sgt. Manney did not verbally provide his rank, name, shield number, or command during this incident, nor did he otherwise provide it by providing § 87(2)(b) with a business card. § 87(2)(g)

**Allegation (N) Abuse of Authority: Sergeant Frederick Manney failed to provide § 87(2)(b) with a business card.**

**Allegation (O) Abuse of Authority: Sergeant Frederick Manney failed to provide § 87(2)(b) with a business card.**

**Allegation (P) Abuse of Authority: Police Officer Antonio Zorrilla failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) said that he never received a business card during this incident.

Sgt. Manney said that he did not offer a business card to § 87(2)(b) or § 87(2)(b) during this incident and said that he may have run out of business cards at the time of the incident.

PO Zorrilla said that he did not offer a business card to § 87(2)(b) during this incident and that he did not have business cards on him at the time.

At the conclusion of this incident, per their BWCs, PO Zorrilla and Sgt. Manney provide neither their business cards nor their identification information (name, rank, shield number, command) to § 87(2)(b) and § 87(2)(b). They walk back to their car and their BWC activations end.

Per Patrol Guide Procedure 203-09 (BR 15) and New York City Administrative Code § 14-174 (BR 16), members of service are to offer business cards at the conclusion of certain law enforcement activities, including questions, frisks, searches of person, and vehicle searches which do not result in an arrest or summons. Should members of service be depleted of all their business cards, they are to provide "ample time" for members of the public to write down identification information, which comprises name, rank, shield number, and command.

PO Zorrilla questioned, frisked, and searched § 87(2)(b). Sgt. Manney frisked and searched § 87(2)(b) and additionally searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. Sgt. Manney and PO Zorrilla did not offer a business card as required and did not provide their identification information as required if they had depleted their business cards. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- This is the first complaint to which § 87(2)(b) [REDACTED] has been a party (BR 22).
- PO Reilly has been a member of service for six years and has been a subject in three CCRB complaints and six allegations, three of which were substantiated.
  - 201700839 involved substantiated allegations of interference with recording, a vehicle search, § 87(2)(g), § 87(4-b) [REDACTED] entry against PO Reilly. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A. § 87(2)(g) [REDACTED]
- PO Zorrilla has been a member of service for five years and has been a subject in 10 CCRB complaints and 28 allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- Sgt. Manney has been a member of service for nine years and has been a subject in 14 CCRB cases and 48 allegations, three of which were substantiated.
  - 201903851 involved a substantiated allegation of failure to provide RTKA card and two substantiated allegations of a search of premises. The Board recommended charges and the NYPD's disposition is not yet available in the CTS+ database.

#### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) [REDACTED] declined to mediate this complaint.



- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**BR 23**).

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]
- § 87(2)(b) [REDACTED]  
[REDACTED]

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Squad No.: 10

Investigator: Ethan C. Waterman      Inv. Ethan Waterman      July 15, 2021  
Signature      Print Title & Name      Date

Squad Leader: Eric Rigie      IM Eric Rigie      7/16/2021  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_  
Signature      Print Title & Name      Date